

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORA CHIZ NOVAKOWSKI,

CIVIL DIVISION

Plaintiff,

NO. 04-356 ERIE

v.

Judge McLaughlin  
**Electronically Filed**

ELAINE CHAO, SECRETARY, and the  
UNITED STATES DEPARTMENT OF LABOR,

Defendants.

**PLAINTIFF'S MOTION TO AMEND COMPLAINT**

AND NOW, comes the Plaintiff Debora Chiz Novakowski, by and through her counsel John R. Linkosky, Esquire and John Linkosky and Assoc., and files the within Motion to Amend Complaint upon the following statement:

1. On December 7, 2004, Plaintiff filed the within action which is pending before this Honorable Court.
2. Since filing this action, Plaintiff has continued to be employed as an Industrial Hygienist in the Erie Area Office of the United States Department of Labor, Occupational Safety and Health Administration ("OSHA").
3. During her continued period of employment, Plaintiff's performance has been satisfactory and even exemplary.
4. Subsequent to the retirement of former Area Director John Stranahan, Barry Burbage, became Acting Area Director of the Erie Area Office. He is being assisted in the management of the office by Gary McKinney.
5. Since assuming their supervisory roles, Mr. Burbage and Mr. McKinney have

engaged in a course of action against Plaintiff involving accusations of non performance by Plaintiff and by placing Plaintiff alone, of all employees of the Erie Area Office, under excessive scrutiny of her conduct.

6. This conduct by Messrs. Burbage and McKinney indicates a plan to discredit her performance with the intent of disciplining her or terminating her employment.

7. Such conduct by management has only in the past been reserved for poor performers and employees suspected of not performing of which there is no evidence that Plaintiff is one.

8. The conduct by Mr. Burbage and Mr. McKinney toward Plaintiff can only be construed as retaliation against Plaintiff for her assertion of her rights pursuant to the Civil Rights Act of 1964, as amended and the filing of the within lawsuit.

WHEREFORE, for all the above reasons, Plaintiff respectfully requests this Honorable Court grant Plaintiff permission to amend the Complaint to add a Charge of retaliation and to seek damages and equitable relief.

Respectfully submitted,

April 18, 2006  
Date

s/ John R. Linkosky  
John R. Linkosky, Esquire  
Attorney for Plaintiff

Pa. I.D. No. 66011

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Plaintiff's Motion to Amend Complaint was  
*electronically filed* on the 18th day of April, 2006, to the following:

Paul E. Skirtich, Esquire  
Assistant U.S. Attorney  
United States Department of Justice  
U.S. Post Office & Courthouse  
700 Grant Street, Suite 400  
Pittsburgh, PA 15219

s/ John R. Linkosky  
John R. Linkosky, Esquire  
Attorney for Plaintiff